

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 15-45780

JASON WYLIE GILBERT,

Chapter 7

Debtor.

Judge Thomas J. Tucker

**SUPPLEMENT TO THE COURT'S MAY 6, 2015 BENCH RULING, REGARDING
ORDER CONDITIONALLY DISSOLVING SHOW-CAUSE ORDER
(REGARDING FILING FEES FOR CASE NOS. 09-46016 AND 09-56797)**

This case came before the Court for a hearing on May 6, 2015, on the Court's order entitled "Order to Show Cause on Dismissal of Case for Failure to Pay Filing Fees in Case Nos. 09-46016, 09-56797, and 09-70287," filed on April 16, 2015 (Docket # 7, the "Show-Cause Order"). The Debtor's counsel appeared at the show-cause hearing. For the reasons stated by the Court on the record during the hearing, the Court entered an order conditionally dissolving the Show-Cause Order, on May 6, 2015 (Docket # 16). That Order requires the Debtor to pay in full the overdue and unpaid filing fees for two of his prior bankruptcy cases, no later than September 11, 2015. The Order further states that if the Debtor fails to do this, the Court will dismiss this case "without further notice or hearing."¹

During the May 6, 2015 hearing, Debtor's counsel questioned the Court's legal authority to now require, in this case, the Debtor to pay his overdue filing fees for his prior cases. The Court ruled that it does have such authority, and cited 11 U.S.C. § 105(a). The Court also stated that it might file a supplement to the bench ruling, citing additional authority. This is that

¹ The Order stated that "[n]o later than **September 11, 2015**, Debtor must pay the \$299.00 filing fee owing for Case No. 09-46016 and the \$299.00 filing fee owing for Case No. 09-56797, for a total of \$598.00, or this case (Case No. 15-45780) will be dismissed without further notice or hearing." (emphasis in original).

supplement.

In addition to § 105(a), the Court now cites, as additional authority for dismissing this case if the Debtor fails to pay the overdue filing fees for his prior cases, 11 U.S.C. § 707(a)(2), which states that:

(a) The court may dismiss a case under this chapter only after notice and a hearing and only for cause, including—

...

(2) nonpayment of any fees or charges required under chapter 123 of title 28;

The filing fees for Debtor's prior cases are "fees . . . required under chapter 123 of title 28." *See* 28 U.S.C. § 1930(a). Section 707(a)(2) is not limited in its application to nonpayment of a filing fee only for the present case, but rather applies to such nonpayment for any prior bankruptcy cases as well ("nonpayment of any fees . . .").

And the Court reiterates that it also has authority to issue the May 6, 2015 Order under 11 U.S.C. § 105(a), which states:

The court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title. No provision of this title providing for the raising of an issue by a party in interest shall be construed to preclude the court from, sua sponte, **taking any action** or making any determination **necessary or appropriate to enforce or implement court orders or rules, or to prevent an abuse of process.**

(emphasis added).

Signed on May 7, 2015

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge